

Point of View No. 68

The Collapse of the Rafah Agreement

15.06.2007

Following Hamas' takeover of the Rafah border crossing Israel closed all its borders crossings with Gaza.

The main concerns arising out of the collapse of the Rafah agreement are the pressures on Israel to assume greater responsibility towards Gaza and the threat to Israel's relations with Egypt.

Hence, Israel should consider annulling the Customs Envelope arrangement in Gaza and coordinate its policy with Egypt in regard to the movement to and from Gaza.

What is the Issue?

- In order for Israel to substantiate its claim for an end of its responsibility over Gaza following the Gaza Disengagement (8/05), Israel was required to withdraw from the Philadelphi Route along the Gaza-Egypt border. In this context, Israel and the Palestinians signed the Agreement on Movement and Access (Rafah Agreement) which regulates movement between Egypt and the Gaza Strip (11/05).

In this agreement, Israel waived its control over the external perimeter of Gaza along the Gaza-Egypt border. Responsibility for security arrangements in the Rafah crossing was transferred to Egypt and the PA under the supervision of the EU Border Assistance Mission.

- The Rafah Agreement stipulates Israel's obligation to maintain the Customs Envelope arrangement. The Customs Envelope, which was part of the Interim Agreement (9/95), specifies that Israel, Gaza and the West Bank would remain a single economic entity. Thus, Israel collects customs and indirect taxes for the Palestinians.
- Following the Gaza Disengagement, the smuggling of arms to Gaza has significantly increased. Israel views Egypt as being responsible for this activity.
- Until the latest clashes in Gaza, Gaza's borders were supervised by a Palestinian security apparatus which associated with Fatah.
- Therefore, **Hamas' takeover of the Rafah crossing means the collapse of the Rafah Agreement between Israel and the PA.**

Why is this Important? Why Now?

Hamas' control over Rafah border crossing creates a dilemma for Israel, because:

- *On the one hand*, in the absence of European observers, **Israel has lost all means of supervision and control** over the Gaza-Egypt border;
- *On the other hand*, renewal of Israeli presence along the Philadelphi Route to prevent arms smuggling to Gaza may **reinstitute Israel's responsibility** for the security and wellbeing of Gaza's population.

Policy Options

This new reality raises a few other issues for the GOI to consider:

- **Dismantling the Customs Envelope** – The logic that shaped the Customs Envelope agreement (5/95) has been rendered irrelevant in the course of the past year and particularly following the Gaza Disengagement (8/05), Hamas victory (1/06) and the establishment of a Hamas-led PA Government (3/06) (see The End of the Era of the Israeli-Palestinian Customs Envelope).

Nonetheless, Israel preserved the Customs Envelope agreement partly due to Palestinian and international pressure not to undermine 'Gaza and the West Bank as a Single Territorial Unit', a key principle of the Oslo Process (9/93) and the Israel-Egypt Camp David Accords (3/79).

Following Hamas' electoral victory (1/06), Israel froze tax funds it has been collecting for the Palestinians though it later released part of it to Abu-Mazen.

Hamas' take over of the Rafah border crossing, which prevents Israel from supervising the import and export of goods in and out of Gaza, alongside Hamas' traditional renunciation of the existing agreements with Israel, enables Israel, in theory, to cancel the Customs Envelope.

As Hamas will now assume full responsibility in Gaza, the dismantling of the Customs Envelope may augment pressure on Hamas to begin to engage Israel constructively.

- **An opportunity for cooperation with Egypt** – Following Hamas victory in Gaza, Egypt and Israel may have a stronger mutual interest to cooperate in Gaza. Egypt may have a stronger incentive to curb arms smuggling in return for Israel's willingness to alleviate some of its pressure on Gaza:

On the one hand, Israel needs Egypt to finally seal its border with Gaza;

On the other hand, Egypt needs Israel to alleviate the pressure on Gaza as it may ultimately need to assume responsibility there, and may also be faced with a large scale Palestinian refugee problem in the Sinai.

Lastly, Israel and Egypt both perceive Hamas to be an adversary because of its association with radical Islam, particularly with Egypt's Muslim Brotherhood movement and Iran.

End.